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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/926,367      | 06/13/2002  | Christian Marzolin   | 215140US0PCT        | 9256             |

22850 7590 07/23/2004

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| EXAMINER |
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CHEVALIER, ALICIA ANN

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| ART UNIT | PAPER NUMBER |
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1772

DATE MAILED: 07/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/926,367

Applicant(s)

MARZOLIN ET AL.

Examiner

Alicia Chevalier

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-64 is/are pending in the application.
- 4a) Of the above claim(s) 19-27,32-60 and 64 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18,28-37 and 61-63 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **RESPONSE TO AMENDMENT**

1. Claims 1-64 are pending in the application, claims 19-27, 32-60 and 64 are withdrawn from consideration.
2. Amendments to the specification and the claims, filed on March 24, 2004, have been entered in the above-identified application.

### ***Election/Restrictions***

3. Newly submitted claim 64 is a method of making an article that is and would have grouped with the other process claims, Group II, in the restriction requirement in paper #11, mailed Aug. 21, 2003. Since Applicant has already elected the article claims, Group I, in paper #13, filed October 10, 2003, claim 64 is also withdrawn from consideration as the non-elected invention.

The restriction requirement is still deemed proper and is therefore made FINAL.

### ***WITHDRAWN REJECTIONS***

4. The objections to the specification made of record in paper #14, mailed December 29, 2003, pages 3-5, paragraph #4 have been withdrawn due to Applicant's amendment in paper in the response filed March 24, 2004.
5. The 35 U.S.C. §101 rejections of claims 28-31, made of record in paper #14, page 6, paragraph #5 have been withdrawn due to Applicant's amendment in the response filed March 24, 2004.

***REJECTIONS REPEATED***

6. The 35 U.S.C. §102 rejection of claims 1-18 and 27 over Azzopardi et al. (French Patent No. 2,756,276) is repeated for reasons previously made of record in paper #14, pages 7-9, paragraph #7.

***NEW REJECTIONS***

7. **The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.**

***Claim Rejections - 35 USC § 102***

8. Claims 28-31 and 61-63 are rejected under 35 U.S.C. 102(e) as being anticipated by Azzopardi (French Patent No. 2,756,276).

Azzopardi is relied upon as described in paper #14, pages 7-9, paragraph #7.

Regarding Applicant's claims 28-31 and 62, the preambles "a building trade or street furnishing," "an air, marine or land transportation vehicle," "a screen, a lamp or an electronic display," "a furnishing or household electrical appliance" is deemed to be a statement with regard to the intended use and is not further limiting in so far as the structure of the product is concerned. In article claims, a claimed intended use must result in a ***structural difference*** between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. MPEP § 2111.02. Furthermore, Azzopardi discloses that the glazing coating is use for various applications, such as the windows for transportation vehicles or for buildings (*col. 1, lines 10-14*).

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Regarding Applicant's claim 61, Azzopardi discloses that the height ranges between 1 and 10 micrometers, since the reference disclose that the irregularities have a height between 7 nm and 45 nm (*col. 5, lines 6-8*).

Regarding Applicant's claim 63, Azzopardi discloses an article comprising the glazing (*col. 1, lines 10-14*).

### ***ANSWERS TO APPLICANT'S ARGUMENTS***

9. Applicant's arguments in the response filed March 24, 2004 regarding the 35 U.S.C. §102 rejection over Azzopardi of record have been carefully considered but are deemed unpersuasive.

Applicant argues that amended claim 1 now recites "said relief consists of a low surface level and a high surface level," essentially that the instant claim 1 claims the substrate ***only*** has two surface levels, while the prior art Azzopardi teaches three surface levels. While the examiner agrees with Applicant's assessment of the Azzopardi, the examiner disagrees with Applicant's construction of the instant claim 1.

Claim 1 recites "a substrate ***comprising*** ... wherein said relief consists of a low surface level and a high surface level." Since the claim uses the term "comprising," which is open language, it is irrelevant that Azzopardi discloses a third surface level.

The substrate must at least have of one relief that consist of a low surface and a high surface level, but the substrate may also include other relieves with other surface levels, since the claim uses the open language comprising.

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In other words the even though Azzopardi includes additional surface levels not required by Applicant's invention, it must be noted that Azzopardi discloses the invention as claimed. The fact that it discloses additional structure not claimed is irrelevant.

### ***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia Chevalier whose telephone number is (571) 272-1490. The examiner can normally be reached on Monday through Friday from 8:00 am to 4:00 pm.

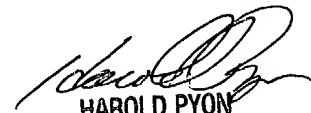
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ac

7/16/04

A large, stylized handwritten signature, possibly reading 'AR', in black ink.A handwritten signature in black ink, appearing to be 'Harold Pyon'.  
HAROLD PYON  
SUPERVISORY PATENT EXAMINER  
1772 7/21/04